

Montana State Legislature

2013 Session

Additional Documents include:

- * Business Report**
- * Roll Call- attendance**
- * Standing Committee Reports,**
- * Table Bills, Fiscal reports etc.**
- * Roll Call Votes**
- * Witness Statements**
- * Informational items**
- * Visitor Registrations**
- * Any other Documents;**
 - ~ Petitions if any?**
 - ~ Any and all material handed in after the meeting end.**

**The original is on file at the
Montana Historical Society and
may be viewed there.**

**Montana Historical Society Archives
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BUSINESS REPORT
MONTANA SENATE
63rd LEGISLATURE - REGULAR SESSION
SENATE JUDICIARY COMMITTEE

Date: Thursday, February 14, 2013
Place: Capitol

Time: 9:00 AM
Room: 303

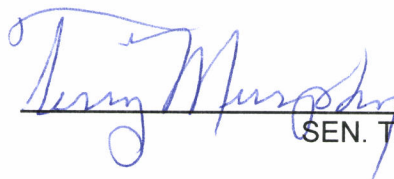
BILLS and RESOLUTIONS HEARD:

HB 129 - Revise campaign finance and disclosure laws - Rep. Steve Gibson
HB 131 - Allow mandatory reporters of child abuse and neglect to receive information - Rep. Jenifer Gursky

EXECUTIVE ACTION TAKEN:

SB 170- Do Pass As Amended
SB 176-Do Pass As Amended
SB 248-Tabled
SB 198-Do Pass As Amended

Comments:



SEN. Terry Murphy, Chair

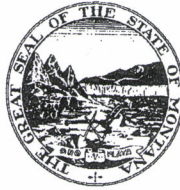
MONTANA STATE SENATE

2013 JUDICIARY COMMITTEE

ROLL CALL

DATE: 2/14/13

<u>NAME</u>	<u>PRESENT</u>	<u>ABSENT/ EXCUSED</u>
CHAIRMAN, SENATOR TERRY MURPHY	<u> </u>	
VICE CHAIRMAN, SENATOR SCOTT SALES		<u> </u>
SENATOR SHANNON AUGARE	<u> </u>	
SENATOR ANDERS BLEWETT	<u> </u>	
SENATOR SCOTT BOULANGER	<u> </u>	
SENATOR JOHN BRENDEN		<u> </u>
SENATOR ROBYN DRISCOLL	<u> </u>	
SENATOR JENNIFER FIELDER	<u> </u>	
SENATOR LARRY JENT	<u> </u>	
SENATOR CLIFF LARSEN	<u> </u>	
SENATOR CHAS VINCENT	<u> </u>	
SENATOR ART WITTICH	<u> </u>	



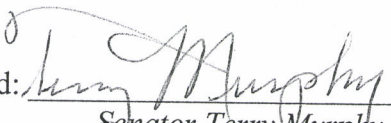
SENATE STANDING COMMITTEE REPORT

February 14, 2013

Page 1 of 1

Mr. President:

We, your committee on **Judiciary** recommend that **Senate Bill 107** (first reading copy -- white) **do pass as amended.**

Signed: 
Senator Terry Murphy, Chair

And, that such amendments read:

1. Title, page 1, line 6.

Strike: "46-18-205,"

2. Page 19, line 25 through page 20, line 20.

Strike: section 7 in its entirety

Renumber: subsequent sections

- END -

Committee Vote:

Yes 9, No 3

Fiscal Note Required ☐

SB0107002SC.swr



SENATE STANDING COMMITTEE REPORT

February 14, 2013

Page 1 of 1

Mr. President:

We, your committee on **Judiciary** recommend that **Senate Bill 176** (first reading copy -- white) **do pass as amended.**

Signed: *Terry Murphy*
Senator Terry Murphy, Chair

And, that such amendments read:

1. Page 4, line 25.

Following: "includes"

Insert: "but is not limited to"

2. Page 4, line 26.

Strike: "without a meeting"

Insert: "provided electronically or"

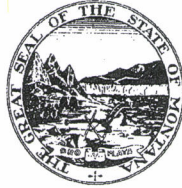
- END -

Committee Vote:

Yes 12, No 0

Fiscal Note Required ☐

SB0176001SC.swr



SENATE STANDING COMMITTEE REPORT

February 14, 2013

Page 1 of 4

Mr. President:

We, your committee on **Judiciary** recommend that **Senate Bill 198** (first reading copy -- white) **do pass as amended.**

Signed: *Terry Murphy*
Senator Terry Murphy, Chair

And, that such amendments read:

1. Title, page 1, line 5.

Strike: "SECTION"

Insert: "SECTIONS"

Following: "45-5-212"

Insert: "AND 46-18-111"

2. Page 1, line 17.

Following: "minor"

Strike: remainder of line 17 through line 18

Insert: ": (i) for a first offense under this subsection (2)(b) shall be imprisoned in a state prison for a term not to exceed 10 years or be fined not more than \$50,000, or both; or
(ii) for a second or subsequent offense under this subsection (2)(b) shall be imprisoned in a state prison for a term not to exceed 20 years or be fined not more than \$50,000, or both."

3. Page 1, line 20.

Following: "victim"

Strike: remainder of line 20 through line 21

Committee Vote:

Yes 12, No 0

Fiscal Note Required

SB0198001SC.swr

Insert: ": (i) for a first offense under this subsection (2)(c) shall be imprisoned in a state prison for a term not to exceed 20 years or be fined not more than \$50,000, or both; or
(ii) for a second or subsequent offense under this subsection (2)(c) shall be imprisoned in a state prison for a term not to exceed 40 years or be fined not more than \$50,000, or both."

4. Page 1, line 21.

Following: line 21

Insert: "(3) An offender convicted of an offense under subsection (2)(b) or (2)(c) shall pay for and complete a counseling assessment with a focus on violence, controlling behavior, dangerousness, and chemical dependency and complete all recommendations for counseling, referrals, attendance at psychoeducational groups, or treatment, including any indicated chemical dependency treatment, made by the counseling provider. The counseling provider must be approved by the court and be a person licensed under Title 37, chapter 17, 22, or 23, or a professional person as defined in 53-21-102. The offender shall complete a minimum of 40 hours of counseling."

5. Page 1, line 22

Insert: "**Section 2.** Section 46-18-111, MCA, is amended to read:

"46-18-111. Presentence investigation -- when required.

(1) (a) Upon the acceptance of a plea or upon a verdict or finding of guilty to one or more felony offenses, the district court shall direct the probation officer to make a presentence investigation and report. The district court shall consider the presentence investigation report prior to sentencing.

(b) If the defendant was convicted of an offense under 45-5-502, 45-5-503, 45-5-504, 45-5-505, 45-5-507, 45-5-625, 45-5-627, 45-5-601(3), 45-5-602(3), or 45-5-603(2)(c) or if the defendant was convicted under 46-23-507 and the offender was convicted of failure to register as a sexual offender pursuant to Title 46, chapter 23, part 5, the investigation must include a psychosexual evaluation of the defendant and a recommendation as to treatment of the defendant in the least restrictive environment, considering the risk the defendant presents to the community and the defendant's needs, unless the defendant was sentenced under 46-18-219. The evaluation must be completed by a sex offender therapist who is a member of the Montana sex offender treatment association or has comparable credentials acceptable to the department of labor and industry. The psychosexual evaluation must be made available to the county attorney's office, the defense attorney, the probation and parole

officer, and the sentencing judge. All costs related to the evaluation must be paid by the defendant. If the defendant is determined by the district court to be indigent, all costs related to the evaluation are the responsibility of the district court and must be paid by the county or the state, or both, under Title 3, chapter 5, part 9.

(c) If the defendant was convicted of an offense under 45-5-212 (2)(b) or (2)(c), the investigation must include a mental health evaluation of the defendant and a recommendation as to treatment of the defendant in the least restrictive environment, considering the risk the defendant presents to the community and the defendant's needs. The evaluation must be completed by a qualified psychiatrist, licensed clinical psychologist, advanced practice registered nurse, or other professional with comparable credentials acceptable to the department of labor and industry. The mental health evaluation must be made available to the county attorney's office, the defense attorney, the probation and parole officer, and the sentencing judge. All costs related to the evaluation must be paid by the defendant. If the defendant is determined by the district court to be indigent, all costs related to the evaluation are the responsibility of the district court and must be paid by the county or the state, or both, under Title 3, chapter 5, part 9.

~~(c)~~(d) When, pursuant to 46-14-311, the court has ordered a presentence investigation and a report pursuant to this section, the mental evaluation required by 46-14-311 must be attached to the presentence investigation report and becomes part of the report. The report must be made available to persons and entities as provided in 46-18-113.

(2) The court shall order a presentence investigation report unless the court makes a finding that a report is unnecessary. Unless the court makes that finding, a defendant convicted of any offense not enumerated in subsection (1) that may result in incarceration for 1 year or more may not be sentenced before a written presentence investigation report by a probation and parole officer is presented to and considered by the district court. The district court may order a presentence investigation for a defendant convicted of a misdemeanor only if the defendant was convicted of a misdemeanor that the state originally charged as a sexual or violent offense as defined in 46-23-502.

(3) The defendant shall pay to the department of corrections a \$50 fee at the time that the report is completed, unless the court determines that the defendant is not able to pay the fee within a reasonable time. The fee may be retained by the department and used to finance contracts entered into under 53-1-203(5).""


Renumber: subsequent sections

- END -

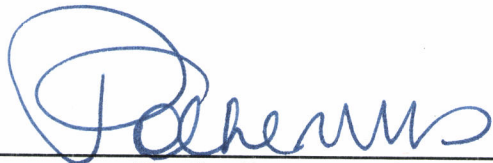
BILL TABLED NOTICE

SENATE JUDICIARY COMMITTEE

The **SENATE JUDICIARY COMMITTEE** TABLED
SB 248 - Revise trespass laws - Sen. Robyn Driscoll
, by motion, on **Thursday, February 14, 2013**.



(For the Committee)



(For the Secretary of the Senate)
11Am / 2/14
(Time) (Date)

February 14, 2013 (10:40am)

Pam Schindler, Secretary

Phone: 406-444-4891

MONTANA STATE SENATE

ROLL CALL VOTE

2013 JUDICIARY COMMITTEE

DATE 2/14/13 BILL NO SB107 MOTION NO. 2

MOTION:

amendment 10705.

<u>NAME</u>	<u>AYE</u>	<u>NO</u>	If Proxy Vote, check here & include signed Proxy Form with minutes
VICE CHAIRMAN, SENATOR SCOTT SALES	<u>—</u>		<u>—</u>
SENATOR JOHN BRENDEN	<u>—</u>		<u>—</u>
SENATOR JENNIFER FIELDER	<u>—</u>		
SENATOR CHAS VINCENT	<u>—</u>		<u>—</u>
SENATOR SCOTT BOULANGER	<u>—</u>		
SENATOR ART WITTICH	<u>—</u>		<u>—</u>
SENATOR SHANNON AUGARE	<u>—</u>		
SENATOR ANDERS BLEWETT	<u>—</u>		
SENATOR ROBYN DRISCOLL	<u>—</u>		
SENATOR LARRY JENT	<u>—</u>		<u>—</u>
SENATOR CLIFF LARSEN	<u>—</u>		<u>—</u>
CHAIRMAN, SENATOR TERRY MURPHY	<u>—</u>		

12/0

MONTANA STATE SENATE
ROLL CALL VOTE
2013 JUDICIARY COMMITTEE

DATE 2/14/13 BILL NO SB107 MOTION NO. 3

MOTION:

Do Pass as Amended

<u>NAME</u>	<u>AYE</u>	<u>NO</u>	If Proxy Vote, check here & include signed Proxy Form with minutes
VICE CHAIRMAN, SENATOR SCOTT SALES		<u>—</u>	<u>—</u>
SENATOR JOHN BRENDEN		<u>—</u>	<u>—</u>
SENATOR JENNIFER FIELDER	<u>—</u>		
SENATOR CHAS VINCENT		<u>—</u>	<u>—</u>
SENATOR SCOTT BOULANGER		<u>—</u>	
SENATOR ART WITTICH	<u>—</u>		<u>—</u>
SENATOR SHANNON AUGARE	<u>—</u>		
SENATOR ANDERS BLEWETT	<u>—</u>		
SENATOR ROBYN DRISCOLL	<u>—</u>		
SENATOR LARRY JENT	<u>—</u>		<u>—</u>
SENATOR CLIFF LARSEN	<u>—</u>		<u>—</u>
CHAIRMAN, SENATOR TERRY MURPHY	<u>—</u>		

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MONTANA STATE SENATE
ROLL CALL VOTE
2013 JUDICIARY COMMITTEE

DATE 2/14/13 BILL NO SB107 MOTION NO. 2

MOTION:

amendment

107.05

<u>NAME</u>	AYE	NO	If Proxy Vote, check here & include signed Proxy Form with minutes
VICE CHAIRMAN, SENATOR SCOTT SALES	<u>—</u>		<u>—</u>
SENATOR JOHN BRENDEN	<u>—</u>		<u>—</u>
SENATOR JENNIFER FIELDER	<u>—</u>		
SENATOR CHAS VINCENT	<u>—</u>		
SENATOR SCOTT BOULANGER	<u>—</u>		
SENATOR ART WITTICH	<u>—</u>		<u>—</u>
SENATOR SHANNON AUGARE	<u>—</u>		
SENATOR ANDERS BLEWETT	<u>—</u>		
SENATOR ROBYN DRISCOLL	<u>—</u>		
SENATOR LARRY JENT	<u>—</u>		
SENATOR CLIFF LARSEN	<u>—</u>		<u>—</u>
CHAIRMAN, SENATOR TERRY MURPHY	<u>—</u>		

12/0

MONTANA STATE SENATE
ROLL CALL VOTE
2013 JUDICIARY COMMITTEE

DATE 2/14/13 BILL NO ^{SB}107 MOTION NO. 3

MOTION:

Do Pass as Amended

<u>NAME</u>	AYE	NO	If Proxy Vote, check here & include signed Proxy Form with minutes
VICE CHAIRMAN, SENATOR SCOTT SALES		<u>—</u>	<u>—</u>
SENATOR JOHN BRENDEN		<u>—</u>	<u>—</u>
SENATOR JENNIFER FIELDER	<u>—</u>		
SENATOR CHAS VINCENT	<u>—</u>		
SENATOR SCOTT BOULANGER		<u>—</u>	
SENATOR ART WITTICH	<u>—</u>		<u>—</u>
SENATOR SHANNON AUGARE	<u>—</u>		
SENATOR ANDERS BLEWETT	<u>—</u>		
SENATOR ROBYN DRISCOLL	<u>—</u>		
SENATOR LARRY JENT	<u>—</u>		
SENATOR CLIFF LARSEN	<u>—</u>		<u>—</u>
CHAIRMAN, SENATOR TERRY MURPHY	<u>—</u>		

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MONTANA STATE SENATE
ROLL CALL VOTE
2013 JUDICIARY COMMITTEE

DATE 2/14/13 BILL NO. SB176 MOTION NO. 2

MOTION:

amendment

176.01 hjb

<u>NAME</u>	AYE	NO	If Proxy Vote, check here & include signed Proxy Form with minutes
VICE CHAIRMAN, SENATOR SCOTT SALES	<u>—</u>		<u>—</u>
SENATOR JOHN BRENDEN	<u>—</u>		<u>—</u>
SENATOR JENNIFER FIELDER	<u>—</u>		
SENATOR CHAS VINCENT	<u>—</u>		
SENATOR SCOTT BOULANGER	<u>—</u>		
SENATOR ART WITTICH	<u>—</u>		<u>—</u>
SENATOR SHANNON AUGARE	<u>—</u>		
SENATOR ANDERS BLEWETT	<u>—</u>		
SENATOR ROBYN DRISCOLL	<u>—</u>		
SENATOR LARRY JENT	<u>—</u>		
SENATOR CLIFF LARSEN	<u>—</u>		<u>—</u>
CHAIRMAN, SENATOR TERRY MURPHY	<u>—</u>		

12/0

MONTANA STATE SENATE

ROLL CALL VOTE

2013 JUDICIARY COMMITTEE

DATE 2/14/13 BILL NO SB176 MOTION NO. 3

MOTION: Do Pass As Amended

NAME	AYE	NO	If Proxy Vote, check here & include signed Proxy Form with minutes
VICE CHAIRMAN, SENATOR SCOTT SALES	<u>—</u>		<u>—</u>
SENATOR JOHN BRENDEN	<u>—</u>		<u>—</u>
SENATOR JENNIFER FIELDER	<u>—</u>		
SENATOR CHAS VINCENT	<u>—</u>		
SENATOR SCOTT BOULANGER	<u>—</u>		
SENATOR ART WITTICH	<u>—</u>		<u>—</u>
SENATOR SHANNON AUGARE	<u>—</u>		
SENATOR ANDERS BLEWETT	<u>—</u>		
SENATOR ROBYN DRISCOLL	<u>—</u>		
SENATOR LARRY JENT	<u>—</u>		
SENATOR CLIFF LARSEN	<u>—</u>		<u>—</u>
CHAIRMAN, SENATOR TERRY MURPHY	<u>—</u>		

12/0

MONTANA STATE SENATE

ROLL CALL VOTE

2013 JUDICIARY COMMITTEE

DATE 2/14/13 BILL NO SP 248 MOTION NO. 1

MOTION:

Table

<u>NAME</u>	AYE	NO	If Proxy Vote, check here & include signed Proxy Form with minutes
VICE CHAIRMAN, SENATOR SCOTT SALES	<u>—</u>		<u>—</u>
SENATOR JOHN BRENDEN	<u>—</u>		<u>—</u>
SENATOR JENNIFER FIELDER	<u>—</u>		
SENATOR CHAS VINCENT	<u>—</u>		
SENATOR SCOTT BOULANGER	<u>—</u>		
SENATOR ART WITTICH	<u>—</u>		<u>—</u>
SENATOR SHANNON AUGARE	<u>—</u>		
SENATOR ANDERS BLEWETT	<u>—</u>		
SENATOR ROBYN DRISCOLL	<u>—</u>		
SENATOR LARRY JENT	<u>—</u>		
SENATOR CLIFF LARSEN	<u>—</u>		<u>—</u>
CHAIRMAN, SENATOR TERRY MURPHY	<u>—</u>		

12/0

MONTANA STATE SENATE

ROLL CALL VOTE

2013 JUDICIARY COMMITTEE

DATE 2/14/13 BILL NO SB198 MOTION NO. 2

MOTION:

amendment

198.01

NAME	AYE	NO	If Proxy Vote, check here & include signed Proxy Form with minutes
VICE CHAIRMAN, SENATOR SCOTT SALES	<u>—</u>		<u>—</u>
SENATOR JOHN BRENDEN	<u>—</u>		<u>—</u>
SENATOR JENNIFER FIELDER	<u>—</u>		
SENATOR CHAS VINCENT	<u>—</u>		
SENATOR SCOTT BOULANGER	<u>—</u>		
SENATOR ART WITTICH	<u>—</u>		<u>—</u>
SENATOR SHANNON AUGARE		<u>—</u>	
SENATOR ANDERS BLEWETT	<u>—</u>		
SENATOR ROBYN DRISCOLL	<u>—</u>		
SENATOR LARRY JENT	<u>—</u>		
SENATOR CLIFF LARSEN	<u>—</u>		<u>—</u>
CHAIRMAN, SENATOR TERRY MURPHY	<u>—</u>		

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MONTANA STATE SENATE
ROLL CALL VOTE
2013 JUDICIARY COMMITTEE

DATE 2/14/13 BILL NO SB198 MOTION NO. 3


MOTION:

Do Pass As Amended

<u>NAME</u>	AYE	NO	If Proxy Vote, check here & include signed Proxy Form with minutes
VICE CHAIRMAN, SENATOR SCOTT SALES	<u>—</u>		<u>—</u>
SENATOR JOHN BRENDEN	<u>—</u>		<u>—</u>
SENATOR JENNIFER FIELDER	<u>—</u>		
SENATOR CHAS VINCENT	<u>—</u>		
SENATOR SCOTT BOULANGER	<u>—</u>		
SENATOR ART WITTICH	<u>—</u>		<u>—</u>
SENATOR SHANNON AUGARE	<u>—</u>		
SENATOR ANDERS BLEWETT	<u>—</u>		
SENATOR ROBYN DRISCOLL	<u>—</u>		
SENATOR LARRY JENT	<u>—</u>		
SENATOR CLIFF LARSEN	<u>—</u>		<u>—</u>
CHAIRMAN, SENATOR TERRY MURPHY	<u>—</u>		

SENATE PROXY

I, Senator Prendon, hereby authorize Senator
SALES to vote my proxy before the
 Senate JUDICIARY meeting held on
 , 2013.



Senator Signature (Sen. John Brenden)

2/14/13 _____ Date

Said authorization is as follows: *(mark only one)*

- ☒ All votes, including amendments.
- ☐ All votes as directed below on the listed bills, and all other votes.
- ☐ Votes only as directed below.

[illegible]

Edward

April

SENATE PROXY

I, Senator Larry Lent, hereby authorize Senator
LARSEN to vote my proxy before the
Senate JUDICIARY meeting held on
 , 2013.

Senator Signature (Sen. Larry Jent)

2/14/13 Date

Said authorization is as follows: *(mark only one)*

- ☒ All votes, including amendments.
- ☐ All votes as directed below on the listed bills, and all other votes.
- ☐ Votes only as directed below.

[illegible]

SENATE PROXY

I, Senator CLIFF LARSEN, hereby authorize Senator Robyn JENT DRISCOLL to vote my proxy before the

Senate JUDICIARY meeting held on
11/11/2013.

Senator Signature (Sen. Cliff Larsen)

Date _____


Said authorization is as follows: *(mark only one)*

- ☒ All votes, including amendments.
- ☐ All votes as directed below on the listed bills, and all other votes.
- ☐ Votes only as directed below.

[illegible]

SENATE PROXY

I, Senator Sales, hereby authorize Senator
VINCENT to vote my proxy before the
 Senate JUDICIARY meeting held on
 , 2013.



Senator Signature (Sen. Scott Sales)

2/14/13
Date

Said authorization is as follows: *(mark only one)*

- ☒ All votes, including amendments.
- ☐ All votes as directed below on the listed bills, and all other votes.
- ☐ Votes only as directed below.

[illegible]

SENATE PROXY

I, Senator Vincent, hereby authorize Senator
SALES to vote my proxy before the
Senate JUDICIARY meeting held on
 , 2013.

Chas Vincent
 Senator Signature (Sen. Chas Vincent)

2/14/13

Date

Said authorization is as follows: *(mark only one)*

- ☒ All votes, including amendments.
- ☐ All votes as directed below on the listed bills, and all other votes.
- ☐ Votes only as directed below.

[illegible]

SENATE PROXY

I, Senator Wittat, hereby authorize Senator
SALES to vote my proxy before the
Senate JUDICIARY meeting held on
 , 2013.

Senator Signature (Sen. Art Wittich)

2/14/13
Date

Said authorization is as follows: *(mark only one)*

- ☒ All votes, including amendments.
- ☐ All votes as directed below on the listed bills, and all other votes.
- ☐ Votes only as directed below.

[illegible]

MONTANA STATE SENATE

Visitors Register

SENATE JUDICIARY COMMITTEE

Thursday, February 14, 2013

HB 129 - Revise campaign finance and disclosure laws

Sponsor: Rep. Steve Gibson

PLEASE PRINT

[illegible]

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

SENATE JUDICIARY COMMITTEE

Sponsor: Rep. Jenifer Gursky

[illegible]

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.